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Report of the Secretary-General on the activities of the Office of Internal Oversight Services

Financing of the United Nations Angola Verification Mission and the United Nations Observer Mission in Angola

Report of the Office of Internal Oversight Services on the investigation into the $6.9 million procurement of quartering area goods in the United Nations Angola Verification Mission

Note by the Secretary-General

1. Pursuant to General Assembly resolution 48/218 B of 29 July 1994, the Secretary-General has the honour to transmit herewith, for the attention of the Assembly, the report conveyed to him by the Under-Secretary-General for Internal Oversight Services on the investigation into the $6.9 million procurement of quartering area goods in the United Nations Angola Verification Mission III (UNAVEM III).

2. The Secretary-General concurs with the recommendations of the report.

3. In paragraph 17 of his report to the General Assembly on the findings, observations and recommendations contained in the report of the Office of Internal Oversight Services on the audits of the procurement process in UNAVEM III (A/53/1018), the Secretary-General informed the Assembly that the Office was conducting a separate investigation of the procurement of goods for quartering areas, and stated his intention to address the issue once the investigation had been completed. In its resolution 54/17 of 29 October 1999, the Assembly looked forward to the report of the Secretary-General on that question. The investigation has now been completed. In view of the comprehensive nature of the report, the fact that extensive discussions have been held between the Office and the Department of Peacekeeping Operations on the matter and the concurrence of the Secretary-General with the recommendations of the Office, it is considered that a separate report of the Secretary-General, as envisaged in Assembly resolution 54/17, would provide no additional information to the Assembly.

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Report of the Office of Internal Oversight Services on the investigation into the $6.9 million procurement of quartering area goods in the United Nations Angola Verification Mission

Summary

The Investigations Section of the Office of Internal Oversight Services was requested in February 1997 by the then Chief Administrative Officer of the United Nations Angola Verification Mission III to assist in a case pending before the Board of Inquiry of the Mission. A $6.9 million contract for quartering area goods was awarded to a local trading company, based on a four-week delivery schedule. This award was part of a tender exercise conducted in May 1995, in which six other vendors were also awarded contracts.

The investigation determined that planning for the exercise was inadequate, and that the procurement processes of the Mission were flawed. In addition, the local trading company failed repeatedly to meet crucial deadlines, objected to provisions that would hold it accountable, and provided goods, most notably the tents, that failed to meet specifications and required additional material and work at the Mission to make them usable. Finally, for a large field procurement that had substantial implications for the achievement of the objective of the Mission, deficiencies in the procurement process cannot be excused only by reason of emergency time pressures. Also, this cannot be viewed simply as a peacekeeping matter when the obligations of the Organization were involved as well.

The Office of Internal Oversight Services has offered recommendations for corrective action, which have been agreed to by the Department of Peacekeeping Operations.

I. Investigation findings

1. Planning and implementation of the quartering area project in Angola for the purpose of demobilization were to have begun soon after the signing of the Lusaka Protocol on 20 November 1994. Owing, however, to subsequent political developments and continued hostilities, the initiation of the project was delayed for some months. Six months after the signing of the Lusaka Protocol, the formal requisition was raised for the establishment of the quartering areas. Critically, no budget for this project was provided until July 1995, making the planning all the more difficult and further reducing the time for implementation. As a result, even though the Procurement Division at United Nations Headquarters was approached to process the requirement in May 1995, it did not proceed because of the lack of budgetary provisions for the procurement of quartering area goods. Subsequently, the Mission was required to do it and, in June 1995, selected the local trading company for 89 per cent of the total award and six others for the balance.

The Department of Peacekeeping Operations stated that the related procurement process was also delayed owing to difficulties in obtaining essential information, such as the number of troops to be quartered and the timetable for demobilization.

A. Procurement process

1. Mission selection process

2. The goods purchased from the local trading company were required for the establishment of the demobilization quartering areas in 1995, which was crucial for the Angolan peace process. The Mission Procurement Section prepared an invitation to bid for a list of 40 line items required for the quartering areas, which was sent to 64 vendors.

3. Upon receipt of the bids from 43 vendors in June 1995, the Mission Procurement Officer prepared the bid analysis. The criteria in the invitation to bid were competitive pricing, earliest delivery schedule, adherence to the specifications and quality of the items offered. The four-week delivery criterion or any other time-specific criterion was not detailed in the invitation to bid or in any subsequent pre-bid notice to the bidders. The invitation to bid had only contained a clear warning to potential bidders, requesting that they provide their earliest delivery date since this would be a critical factor in the evaluation of offers for award. The local trading company was the only vendor of the 43 respondents to the invitation to bid which offered a four-week delivery period for each of the 40 line items. Six other firms also offered delivery of some items within a four-week period at competitive prices, and were thus awarded contracts valued at $812,000, or 11 per cent of the total quartering area award for those 15 items.

4. The key documents in this case, namely, the original bid documents from the 43 vendors which were reported as having responded to the invitation to bid, are missing from the files of the Mission. Therefore, the Office of Internal Oversight Services cannot verify the date and time the bids were received, the manner and the order in which the bids were received, whether any bids were received after the deadline or, most important, the accuracy of the bid information (e.g., prices) that was presented to the local Committee on Contracts and the Headquarters Committee on Contracts. Lacking the original bids, the original terms from each bidder cannot be determined. The available records of post-bid correspondence between the Mission and the vendors, such as the request for confirmation of prices, did not reveal discrepancies between the confirmed prices and those submitted to the Headquarters Committee on Contracts.

5. On 21 June 1995, the Local Committee on Contracts held the meeting at which the contract was debated and the local trading company selected, primarily on the basis of its representation that it could deliver the goods within the four-week period, even though it was not the lowest bidder for the majority of the items in the invitation to bid. The first documentary evidence available of the four-week delivery criterion is a memorandum, also dated 21 June 1995, from the Chief of Integrated Support Services addressed to the Officer-in-Charge of Procurement. In this memorandum, the former refers to discussions held earlier the same day and adds that the quartering area material should be delivered within four weeks to the logistics base. During his interview, the Chief stated that the four-week criterion was decided at the meeting on quartering area issues, which also was held on 21 June 1995. He referred the Office of Internal Oversight Services to the minutes of the meeting held on 21 June, which, according to him, would clearly indicate how the four-week determination was made. Copies of these minutes are, however, among the missing documents. In effect, the Mission had made its recommendation of the local trading company to the Headquarters Committee on Contracts as the lowest acceptable bidder for 25 line items valued at $6.9 million, while it had recommended that the remaining 15 line items, valued at $812,000, be awarded to six other vendors whose prices were lower.

The Department of Peacekeeping Operations stated that the memorandum in question was circulated to all

involved senior officers of the Mission and that there are no grounds to doubt the definition of the requirement and its exigency.

6. Using the bid information presented to the Local Committee on Contracts, the Office of Internal Oversight Services prepared an analysis of the bid of the local trading company and, based on price alone, the company was the lowest bidder for only 2 of the 40 line items, valued at $38,550. Once the four-week delivery criterion was applied, the company became the lowest bidder for 25 of the 40 line items.

The Department of Peacekeeping Operations stated that this analysis does not account for lower price offers from other bidders that were determined to be technically non-compliant, or those deemed to be unrealistically low. In addition, some bidders submitted packaged offers which precluded making split awards.

2. Evaluation and recommendations by the Headquarters Committee on Contracts

7. The Headquarters Committee on Contracts initially refused to approve the award because the invitation to bid did not specify the four-week delivery requirement. Owing to the potentially serious political consequences if the quartering areas were not ready to accept demobilized soldiers, however, the process was not cancelled. Instead, on 27 June 1995, the Headquarters Committee on Contracts recommended that the bids be rejected and that negotiations be undertaken with the companies that had bid for the goods. These negotiations were to include the bidders which had offered prices lower than those recommended by the Mission but had offered longer delivery terms. The Office of Internal Oversight Services was able to locate all of the communications that notified the vendors that the United Nations had rejected their bids, except for one sent to the local trading company.

8. The Mission did not implement the recommendation of the Headquarters Committee on Contracts that it negotiate with firms that had submitted lower bids but longer delivery dates to see whether they could improve their delivery schedules. The Chief Administrative Officer explained that the exigency in acquiring the goods precluded negotiation with firms that could not deliver the goods within the four-week period, in particular given the request in the invitation to bid that they provide their best delivery schedule.

9. At a subsequent meeting, on 29 June 1995, the Headquarters Committee on Contracts again met to discuss this procurement. It was told that the Mission was investigating the financial strength of each company, which the Mission did not do, making only a perfunctory examination of the premises of the local trading company. The Headquarters Committee on Contracts was also told that the Mission intended to obtain a performance bond, which the Mission did attempt to do, but its request was rejected by the local company, since this requirement was not stipulated in the invitation to bid. At the third meeting of the Headquarters Committee on Contracts on 7 July 1995, the Committee reluctantly recommended the award of the contract to the local company, as recommended by the Mission. The Committee also recommended that the Mission: review very carefully those items to be procured and that any not considered absolutely urgent be the subject of a rebidding exercise; verify the financial standing of all vendors carefully before any contract was awarded; and include a performance bond in the contract document. The review by the Office of Internal Oversight Services of the available documentation and its interviews with the participants located no evidence that demonstrated that these recommendations were implemented.

10. The Headquarters Committee on Contracts had also expressed concern that the Mission had negotiated with the vendors recommended by the Mission Procurement Officer before all bidding companies were informed of the rejection of bids. The Committee noted that this procedure was patently incorrect and might also expose the Organization to protests from bidders and to claims.

B. Changes in the purchase orders: delays in delivery

11. The award was made to the local trading company and embodied in a purchase order form which was issued by the Mission to the company on 11 July 1995. The purchase order was subsequently cancelled because the company was not in agreement with certain terms, such as conditions for payment and the requirement for a performance bond, as recommended by the Headquarters Committee on Contracts. Since these provisions were not stipulated in the invitation to bid, the Mission negotiated with the company and obtained agreement for a 5 per cent withholding of payment in lieu of the performance bond, and elaborated on the conditions for payment. These measures, however, would not provide full financial security to the Mission in the event of vendor default. Five days after the Committee made the recommendation and one day after the issuance of the first purchase order, that is, on 12 July 1995, the local trading company gave the first documented indication that it would not be able to meet the four-week delivery schedule by

advising the Mission that, owing to the delay in the issuance of the purchase order, it had lost a window of opportunity for the delivery of all items within the requested time frame, as per its response to the invitation to bid issued in May 1995, almost two months before. The Mission negotiated and accepted an amended delivery schedule, in particular in view of the offer by the company to airlift, rather than deliver by sea, the first consignment of tents at no additional cost to the Organization. An amended purchase order reflecting the new delivery schedule was issued on 20 July 1995 and called for delivery of the goods in stages, with the first shipment of tents due on 15 August 1995. The local company was unable to deliver the entire order in four weeks as it had bid. In accordance with the second purchase order, the company supplied about 28 per cent of the main commodity, tents, on time, based on the revised purchase order delivery schedule. These goods, however, were problematic.

The Department of Peacekeeping Operations stated that the decision to accept the amended delivery schedule from the local trading company was due to the absence of other viable alternatives, as recorded in the minutes of the Local Committee on Contracts.

12. Almost all of the goods delivered by the local company were below specifications. The vast majority of the tents provided by the company in August were not in accordance with the specifications of the purchase order in material respects. The Mission issued the amended purchase order to reflect the new conditions for the company. Because the date of arrival of the soldiers was nearing, the Chief Administrative Officer directed that the defective tents be installed. All of the former Mission staff interviewed stated that the management of the local company had a constant presence at the Mission and had participated in the receiving and inspection process.

The Department of Peacekeeping Operations stated that the receiving and inspection process was done by the authorized Mission personnel. The representatives of the local company were present to assist in the verification of disputed specifications of the delivered goods.

13. Delivery of the tents was arranged in multiple shipments, to be completed within 14 weeks of the date of the amended purchase order. Despite the inferior goods and the seriously delayed delivery, the items were accepted in October 1995 and were utilized by the Mission staff because of the growing time pressures to have an established quartering area available for arriving soldiers in December 1995.

14. The Mission rejected some of the items as below specifications, including all of the so-called multi-purpose tents, and negotiated a 20 per cent prorated quality deduction from the company's invoices for the 3,000 tents delivered in the first shipment which did not meet specifications.

The Department of Peacekeeping Operations stated that the Mission also made other deductions for quality shortfalls, amounting to $214,000. The analysis undertaken showed that the total quality deductions made by the Mission from payments to the local company were commensurate with the amounts estimated to have been deductible for quality shortfalls.

II. Conclusions

15. The quartering area project was a critical component of the peace process and it must be recognized that the demobilization did occur through the efforts of Mission staff. The evidence does not support a finding that Mission staff personally benefited or sought to wilfully mislead United Nations Headquarters, or that there was actual financial loss. The Office of Internal Oversight Services must, however, still report that the Organization paid approximately $5.8 million for quartering area goods (including $259,000 for related services), with some of these goods not meeting the requisitioned specifications, further complicating the quartering area project. This was the result of the difficulties in forward planning of this procurement exercise in the absence of funding and also because of less-than-adequate procurement processes in the Organization. These include the lack of a budget for eight months after the signing of the Lusaka Protocol, limited planning, non-implementation of recommendations of the Headquarters Committee on Contracts; deficiencies in the invitation to bid and the selection process; and the delayed decision over whether the procurement would be at United Nations Headquarters or at the Mission site.

16. While some of these items, for example, the budget and planning phases, may have been affected by continued hostilities in the Angolan conflict, others were not.

III. Recommendations

17. The Office of Internal Oversight Services recommends the following to address the key issues raised in the present report:

(a) **Recommendation 1.** When Headquarters is delegated to undertake a crucial and exigent procurement, such procurement action can and should be initiated even in

the absence of budgetary provision, to an extent just short of that which financially obligates the Organization (IV/97/015/01);

The Department of Peacekeeping Operations supports this recommendation.

(b) **Recommendation 2.** The Procurement Division and the Field Administration and Logistics Division should develop institutionally-sanctioned mechanisms to avoid the problems herein identified, including the development of special rules and procedures for procurement under emergency situations (see E/AC.51/1997/3) (IV/97/015/02);

The Department of Peacekeeping Operations supports this recommendation.

(c) **Recommendation 3.** The Office of Legal Affairs should review this case in order to determine if a recommendation for precluding the local trading company or other companies managed by its directors from conducting business with the United Nations is sustainable, and if such action would not create potential liability for the Organization (IV/97/015/03);

The Department of Peacekeeping Operations comments that the responsibility for such action rests with the Department of Management.

(d) **Recommendation 4.** Legal advisers in missions should be consulted for complicated and expensive procurement action, including a determination of the appropriateness of the contractual document (IV/97/015/04).

The Department of Peacekeeping Operations supports this recommendation.

(*Signed*) Karl Th. **Paschke**
Under-Secretary-General
for Internal Oversight Services